

Introduced by Senator Florez

February 22, 2005

An act to amend Section 361.4 of, and to add Sections 366.23 and 366.24 to, the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

SB 726, as introduced, Florez. Dependent children.

Existing law governs dependency proceedings in the juvenile court, including status review hearings, reunification services, and proceedings to determine whether to return of a child to his or her parent or legal guardian, or to terminate parental rights. Existing law requires, until January 1, 2010, social workers to visit the homes of, and to conduct criminal records checks of all persons living in the homes of, relatives and prospective guardians or other persons who are not licensed or certified foster parents before placing children in those homes.

This bill would require social workers to visit the home of, and conduct criminal records checks of all persons living in the home of, a noncustodial parent prior to the placement of a child who has been removed from the custody of the other parent in that home. The bill would also require social workers to prepare, and the court to consider, reports regarding the observations of foster parents, as specified, prior to returning a child to the custody of a parent or legal guardian. By imposing new duties on county employees, the bill would impose a state-mandated local program.

The bill would also require a court to require the social worker to conduct a 2nd home visit, as specified. The bill would require a court to order a parent or legal guardian to complete one or more parenting

classes after reunification with a child under 6 years of age who had been placed in foster care.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 361.4 of the Welfare and Institutions
2 Code is amended to read:
3 361.4. (a) Prior to placing a child in the home of a
4 ~~noncustodial parent or other~~ relative, or the home of any
5 prospective guardian or other person who is not a licensed or
6 certified foster parent, the county social worker shall visit the
7 home to ascertain the appropriateness of the placement.
8 (b) Whenever a child may be placed in the home of a
9 ~~noncustodial parent or other~~ relative, or the home of any
10 prospective guardian or other person who is not a licensed or
11 certified foster parent, the court or county social worker placing
12 the child shall cause a state and federal level criminal records
13 check to be conducted by an appropriate governmental agency
14 through the California Law Enforcement Telecommunications
15 System (CLETS) pursuant to Section 16504.5. The criminal
16 records check shall be conducted with regard to all persons over
17 the age of 18 years living in the home, and on any other person
18 over the age of 18 years, other than professionals providing
19 professional services to the child, known to the placing entity
20 who may have significant contact with the child, including any
21 person who has a familial or intimate relationship with any
22 person living in the home. A criminal records check may be
23 conducted pursuant to this section on any person over the age of
24 14 years living in the home who the county social worker
25 believes may have a criminal record. Within five judicial days

1 following the criminal records check conducted through the
2 California Law Enforcement Telecommunications System, the
3 social worker shall ensure that a fingerprint clearance check of
4 the relative and any other person whose criminal record was
5 obtained pursuant to this subdivision is initiated through the
6 Department of Justice to ensure the accuracy of the criminal
7 records check conducted through the California Law
8 Enforcement Telecommunications System and shall review the
9 results of any criminal records check to assess the safety of the
10 home. The Department of Justice shall forward fingerprint
11 requests for federal level criminal history information to the
12 Federal Bureau of Investigation pursuant to this section.

13 (c) Whenever a child may be placed in the home of a
14 *noncustodial parent or other* relative, or a prospective guardian
15 or other person who is not a licensed or certified foster parent,
16 the county social worker shall cause a check of the Child Abuse
17 Index pursuant to subdivision (a) of Section 11170 of the Penal
18 Code to be requested from the Department of Justice. The Child
19 Abuse Index check shall be conducted on all persons over the age
20 of 18 years living in the home.

21 (d) (1) If the criminal records check indicates that the person
22 has no criminal record, the county social worker and court may
23 consider the home of the *noncustodial parent or other* relative,
24 prospective guardian, or other person who is not a licensed or
25 certified foster parent for placement of a child.

26 (2) If the criminal records check indicates that the person has
27 been convicted of a crime that would preclude licensure under
28 Section 1522 of the Health and Safety Code, the child may not be
29 placed in the home, unless a criminal records exemption has been
30 granted by the county, based on substantial and convincing
31 evidence to support a reasonable belief that the person with the
32 criminal conviction is of such good character as to justify the
33 placement and not present a risk of harm to the child pursuant to
34 paragraph (3).

35 (3) (A) A county may issue a criminal records exemption only
36 if that county has been granted permission by the Director of
37 Social Services to issue criminal records exemptions. The county
38 may file a request with the Director of Social Services seeking
39 permission for the county to establish a procedure to evaluate and
40 grant appropriate individual criminal records exemptions for

1 persons described in subdivision (b). The director shall grant or
2 deny the county's request within 14 days of receipt. The county
3 shall evaluate individual criminal records in accordance with the
4 standards and limitations set forth in paragraph (1) of subdivision
5 (g) of Section 1522 of the Health and Safety Code, and in no
6 event shall the county place a child in the home of a person who
7 is ineligible for an exemption under that provision.

8 (B) The department shall monitor county implementation of
9 the authority to grant an exemption under this paragraph to
10 ensure that the county evaluates individual criminal records and
11 allows or disallows placements according to the standards set
12 forth in paragraph (1) of subdivision (g) of Section 1522 of the
13 Health and Safety Code.

14 (4) The department shall conduct an evaluation of the
15 implementation of paragraph (3) through random sampling of
16 county exemption decisions.

17 (5) The State Department of Social Services shall not evaluate
18 or grant criminal record exemption requests for persons
19 described in subdivision (b), unless the exemption request is
20 made by an Indian tribe pursuant to subdivision (f).

21 (6) If a county has not requested, or has not been granted,
22 permission by the State Department of Social Services to
23 establish a procedure to evaluate and grant criminal records
24 exemptions, the county may not place a child into the home of a
25 person described in subdivision (b) if any person residing in the
26 home has been convicted of a crime other than a minor traffic
27 violation, except as provided in subdivision (f).

28 (e) Nothing in this section shall preclude a county from
29 conducting a criminal background check that the county is
30 otherwise authorized to conduct using fingerprints.

31 (f) Upon request from an Indian tribe, the State Department of
32 Social Services shall evaluate an exemption request, if needed, to
33 allow placement into an Indian home that the tribe has designated
34 for placement under the Indian Child Welfare Act (25 U.S.C.
35 Sec. 1901 et seq.) that would otherwise be barred under this
36 section. However, if the county with jurisdiction over the child
37 that is the subject of the tribe's request has established an
38 approved procedure pursuant to paragraph (3) of subdivision (d),
39 the tribe may request that the county evaluate the exemption
40 request. Once a tribe has elected to have the exemption request

1 reviewed by either the State Department of Social Services or the
2 county, the exemption decision may only be made by that entity.
3 Nothing in this subdivision limits the duty of a county social
4 worker to evaluate the home for placement or to gather
5 information needed to evaluate an exemption request.

6 (g) This section shall remain in effect only until January 1,
7 2010, and as of that date is repealed, unless a later enacted
8 statute, that is enacted before January 1, 2010, deletes or extends
9 that date.

10 SEC. 2. Section 366.23 is added to the Welfare and
11 Institutions Code, to read:

12 366.23. (a) Prior to ordering the return of a child to the
13 physical custody of his or her parent or legal guardian, the court
14 shall order the social worker to prepare a report containing
15 information obtained from an interview with the foster parents of
16 the child regarding the needs of the child and any relevant
17 additional information regarding the child, including , but not
18 limited to, the behavior of the parent or legal guardian of the
19 child as observed by the foster parent while the child resided with
20 the foster parent. The social worker shall interview the foster
21 parents and report to the court in a timely manner. The court may
22 not return a child to the physical custody of his or her parents
23 until the court has received and considered this report.

24 (b) Notwithstanding any other provision of this part, the court
25 may not return a child who is within the jurisdiction of the
26 juvenile court pursuant to Section 300 and who has been
27 removed from the physical custody of his or her parent or
28 guardian, to the physical custody of that parent or guardian,
29 unless the court requires the social worker to conduct a second
30 home visit and to make a written report to the court regarding the
31 child's living conditions within the home within a reasonable
32 period of time after the child is returned to the physical custody
33 of the parent or guardian. If a second home visit is not completed
34 within a reasonable period of time after the child is returned to
35 the physical custody of the parent or guardian, or if the social
36 worker conducts a second home visit and makes a determination
37 in a written report to the court that the home in which the child
38 will reside is not clean and safe and adequate to ensure the
39 continued safety and protection of the child, the child shall be
40 removed from the home.

1 SEC. 3. Section 366.24 is added to the Welfare and
2 Institutions Code, to read:

3 366.24. If a dependent child of the court who had been
4 placed in foster care is returned to the physical custody of his or
5 her parent or legal guardian and if that child is less than six years
6 of age, the court shall order the parent or legal guardian to
7 complete one or more parenting classes subsequent to his or her
8 reunification with the child.

9 SEC. 4. If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.